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11 Chapter 9 Counsel for Tulare Local Healthcare District

12  
13 IN THE UNITED STATES BANKRUPTCY COURT  
14 EASTERN DISTRICT OF CALIFORNIA  
15 FRESNO DIVISION

16 In re

CASE NO. 17-13797

17 TULARE LOCAL HEALTHCARE  
18 DISTRICT, dba TULARE  
19 REGIONAL MEDICAL CENTER,

DC No.: WW-59

20 Debtor.

Chapter 9

21 Tax ID #: 94-6002897  
22 Address: 869 N. Cherry Street  
23 Tulare, CA 93274

Date: November 15, 2018  
Time: 9:30 a.m.  
Place: 2500 Tulare Street  
Fresno, CA 93721  
Courtroom 13  
Judge: Honorable René Lastreto II

24 SIXTH OMNIBUS MOTION FOR ORDER AUTHORIZING REJECTION OF  
25 CERTAIN EXECUTORY CONTRACTS

26 TO THE HONORABLE RENÉ LASTRETO II, UNITED STATES BANKRUPTCY  
27 JUDGE:

28 Debtor, Tulare Local Healthcare District, doing business as Tulare Regional  
Medical Center ("Debtor" or the "District") hereby moves the Court, pursuant to 11

1 U.S.C. §§ 901, 365, and F.R.B.P. 6006(f), for entry of an order authorizing the District  
2 to reject certain executory contracts<sup>1</sup> ("Designated Contracts") as follows:

3 1. This Motion is based on the Motion, the Exhibits, the Notice, and the  
4 Declaration of Sanford Haskins in Support of Motion.

5 2. A list of the Designated Contracts is attached hereto as Exhibit "A" and  
6 specifies the following information as to each of the Designated Contracts: (1) contract  
7 party, and (2) a description of the subject contract.

8 3. Sections and 901 and 365(a) allow for the rejection of any executory  
9 contract subject to court approval. F.R.B.P. 6006 further allows for omnibus rejection  
10 of contracts, provided that, among other things, the list of contracts to be rejected is  
11 limited to no more than 100 contracts per motion. F.R.B.P. 6006(f).

12 4. The standard for reviewing whether a contract should be assumed or  
13 rejected is one of business judgment. Group of Institutional Investors v. Chicago,  
14 Milwaukee, St. Paul and Pacific R.R. Co., 318 U.S. 523, 550 (1943). In applying the  
15 "business judgment standard, courts show great deference to a debtor's decision to  
16 assume [or reject] executory contracts, with only a cursory review of [the debtor's]  
17 decision...." In re Pomona Valley Medical Group, Inc., 476 F.3d 665, 670 (9th Cir.  
18 2007). As long as the decision to assume or reject such contracts is a reasonable  
19 exercise of business judgment, a court should approve the assumption or rejection of  
20 an executory contract. See e.g. NLRB v. Bildisco & Bildisco, 465 U.S. 513, 523 (1984).

21 The District has determined that the Designated Contracts are no longer needed  
22 or desired. See Declaration of Sanford Haskins. Accordingly, based on its sound  
23 business judgment, the District hereby seeks authority to reject the Designated  
24 Contracts.

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26 <sup>1</sup> While the District recognizes that the contracts sought to be rejected may not constitute "executory  
27 contracts" within the meaning of 11 U.S.C. § 365, the District wishes to reject these contracts nonetheless out of an  
abundance of caution and for the avoidance of any doubt.

1        Rejection of the Designated Contracts is essential to Debtor's successful  
2 reorganization because the Designated Contracts provide no ongoing benefit to  
3 Debtor. If Debtor were to continue performance under the Designated Contracts and  
4 their unfavorable terms Debtor's reorganization would be harmed.

5        Based on the foregoing, Debtor has satisfied the requirements of 11  
6 U.S.C. § 365 and F.R.B.P. 6006(f). Therefore, the Court is requested to issue an order  
7 authorizing the rejection of the Designated Contracts.

8        WHEREFORE, the Debtor respectfully requests that the Court enter an order:  
9 (1) authorizing the rejection of the Designated Contracts; (2) fixing the date by which  
10 any claims based on this Motion must be filed; and (3) grant such other relief as is just  
11 and proper.

12      Dated: 10/26, 2018

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14  
15 By:

  
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